

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER**

_____)	
UNITED STATES OF AMERICA,)	
Complainant,)	8 U.S.C. § 1324a Proceeding
)	
v.)	OCAHO Case No. 97A00103
)	
CURRAN ENGINEERING)	Judge Robert L. Barton, Jr.
COMPANY, INC.,)	
Respondent.)	
_____)	

NOTICE OF SECOND PREHEARING CONFERENCE

(November 14, 1997)

As previously arranged by telephone, a telephone prehearing conference in this case will take place at noon Pacific Time on November 18, 1997. The call will be initiated by my office, and I expect that the conference will take no longer than an hour.

I conducted a telephone conference on July 11, 1997, with the parties to discuss a Joint Motion to Approve Consent Findings and Settlement Agreement Containing Consent Findings, which the parties filed on June 20, 1997. As was discussed during that conference, there was some question as to whether the claims asserted in the complaint were barred by the statute of limitations. Following the conference, both parties filed various motions. Complainant filed a motion for default judgment, and Respondent filed a motion to withdraw from the settlement agreement and a motion to dismiss the complaint.

On September 2, 1997, I accepted Respondent's late filed answer and denied Complainant's motion for default judgment. On October 31, 1997, I denied Respondent's motion to dismiss with respect to Counts I, II, III, and IV, but granted the motion with respect to Count V.

I have not yet ruled on Respondent's motion to withdraw from the settlement agreement. I deferred a ruling on that issue until Complainant's motion for default and Respondent's motion to dismiss were adjudicated. Since the motion for default was denied, and the motion to dismiss was denied with respect to four out of the five counts of the complaint, this case is still viable.

Each party should be prepared to address Respondent's motion to withdraw from the June 20, 1997, settlement agreement and whether the settlement agreement in its present form can be entered. In particular, I would note that paragraph 7 of the settlement agreement states that Respondent admits the allegations in Count V of the complaint and agrees to a civil money penalty of \$700 for Count V. Since Count V has been dismissed, it is difficult to see how the agreement, as it presently is worded, can be accepted. In any event, I will expect the parties to address this issue. Moreover, even if the June 20 agreement cannot be enforced, I will hear from the parties on whether a revised settlement agreement might be feasible. In order to facilitate settlement, Complainant is ordered to attempt to contact Respondent and to see whether both parties can reach a mutually agreeable settlement. Not later than 5 p.m. Pacific Time on Monday, November 17, 1997, Complainant is ordered to file a written status report with the Court on its efforts to reach and discuss settlement with Respondent. Alternatively, if the parties are not able to agree on a revised settlement agreement, I expect Complainant to state whether it contends that the present settlement agreement should be enforced and to present any relevant authority in a written memorandum filed with the Court not later than 5 p.m. Pacific Time on Monday, November 17, 1997. In order to insure that the status report or memorandum is received by my office at that time, Complainant is ordered to transmit those documents by FAX.

If the parties are unable to agree on settlement, and if I grant Respondent's motion to withdraw, then we will discuss a prehearing procedural schedule. Each party should be prepared to propose a schedule and to state whether it will need any discovery in this case.

An original and two (2) copies of all pleadings, including attachments, shall be filed with this office. See 28 C.F.R. § 68.6(a). All documents filed with this office, including but not limited to motions, other pleadings and memoranda, shall have numbered pages.

ROBERT L. BARTON, JR.
ADMINISTRATIVE LAW JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of November, 1997, I have served the foregoing Notice of Second Prehearing Conference on the following persons at the addresses shown, by first class mail, unless otherwise noted:

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Gita Anoushirvani, Esq.
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(Counsel for Complainant)
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